

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

KEITH LEETH
1515 State Route 220
Piketon, Ohio 45661

Case No.: 3:21-CV-132

Judge

Plaintiff,

vs.

SECRETARY OF VETERANS AFFAIRS
Denis McDonough
810 Vermont Avenue
Washington, D.C. 20420

**COMPLAINT WITH
JURY DEMAND**

Defendant.

Now comes Plaintiff Keith Leeth (“Leeth” or “Plaintiff”) by his counsel, and for his Complaint against Defendant Secretary of Veterans Affairs hereinafter referred to as “Defendant” states as follows:

I. PARTIES, JURISDICTION & VENUE

1. This is an action for wrongful discharge predicated on sexual orientation discrimination pursuant to Title VII of the Civil Rights Act of 1964, as amended.
2. Plaintiff is a resident of Pike County, Ohio and a former employee of the Department of Veterans Affairs. Plaintiff is a member of the LGBTQ community as he is gay.
3. Defendant Department of the Veterans Affairs has various medical centers located in Ohio and other states, including locations in this judicial district.
4. Jurisdiction in this Court is proper at least pursuant to 42 U.S.C. §2000 (e) of the Civil Rights Act. Plaintiff was terminated based on his sexual orientation (gay).

5. Venue properly lies with the Southern District of Ohio because Defendant conduct business with this district.

6. On or about January 29, 2021, the Office of Employment Discrimination Complaint Adjudication, U.S. Department of Veterans Affairs issued a Final Agency Decision (“FAD”) which, granted Plaintiff the right to bring this action in this Court no later than ninety days after Plaintiff’s receipt of the decision. Plaintiff has timely filed this Complaint.

II. FACTUAL BACKGROUND

7. Plaintiff restates the previous allegations of paragraphs 1-6 herein.

8. Plaintiff began employment with Defendant on July 7, 2019. At all relevant and material times hereto Plaintiff was employed as a Pharmacy Technician at Defendant’s Chillicothe VA Medical Center.

9. March 22, 2020 was the effective date of Plaintiff’s termination from the Chillicothe VA Medical Center by Defendant for alleged “repeated unacceptable attendance issues.”

10. Plaintiff was terminated by his third level supervisor, Adam Jackson, Chief of Pharmacy. This supervisor informed Plaintiff he was being terminated for failing to report for duty on his scheduled work days on February 29, 2020 and March 1, 2020. However on these days Plaintiff was on approved leave for both days, authorized by his first level supervisor Tracy Bower.

11. Both supervisors knew that Plaintiff was gay and married to a male. It was discussed on several times, including his initial interview for the position.

12. When Plaintiff requested leave for the days at issue he specifically advised Defendant that the reason for the leave was because his husband was being hospitalized.

13. Plaintiff’s shift on the days of February 29, 2020 and March 1, 2020 were covered by a co-worker.

14. Plaintiff returned to his regular scheduled shift on March 4, 2020 and continued to work through March 14, 2020.

15. Plaintiff was then terminated because of his sexual orientation which was known by Defendant's supervisor who terminated Plaintiff.

16. The reasons alleged by Defendant for Plaintiff's termination are false.

III. CAUSES OF ACTION

17. Plaintiff restates the previous allegations of paragraphs 1-16 herein.

18. Plaintiff is a member of a class of individuals protected from sexual discrimination (based on his sexual orientation) by the Civil Rights Act of 1964, as amended. Also see Bostock v. Clayton County, Georgia, 590 U.S. ____ (2020).

19. Plaintiff performed his job duties at the Chillicothe VA in an exceptional manner.

20. Plaintiff was treated differently by Defendant in respect to the terms and conditions of his employment then similarly situated employees who were not gay in respect to his termination. Plaintiff was terminated due to his sexual orientation.

21. As a result of Defendant's unlawful and discriminatory treatment of Plaintiff, Plaintiff has been damaged in the form of loss pay and benefits and has been required to incur attorney fees.

IV. PRAYER FOR RELIEF

WHEREFORE, Plaintiff Keith Leeth respectfully demands judgment against Defendant Secretary of Veterans Affairs and prays for the following relief:

- A. Reinstatement to his former position of Pharmacy Technician with an award of back pay and all benefits due and owing and/or front pay plus benefits, if reinstatement is not feasible;
- B. The removal of all documents and records from his personnel file associated with the 2020 termination;

- C. An award of compensatory damages in the amount of \$300,000;
- D. An award of pre and post judgment interest;
- E. An award of reasonable attorney fees and costs; and
- F. Such other relief that this Court deems just and equitable.

Respectfully submitted,

DUWEL LAW

/s/ David M. Duwel

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ATTORNEY FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of April 2021, the foregoing was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's CM/ECF and copies will be mailed via U.S. Mail to those parties to whom electronic notice has not been sent. Parties may access the filing through the Court's e-filing system.

/s/ David M. Duwel

Attorney at Law

JURY DEMAND

Plaintiff demands a trial by jury as to all issues claimed and pleaded.

/s/ David M. Duwel

David M. Duwel